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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,439	07/14/2002	Scott C. Harris	DIY-C1	2498

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EXAMINER

GREIMEL, JOCELYN

ART UNIT PAPER NUMBER

3693

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/064,439

Applicant(s)

HARRIS, SCOTT C.

Examiner

Jocelyn Greimel

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/29/02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to Applicant's application of July 14, 2002, which is a continuation of 09/682,853 filed October 24, 2001. Claims 1-64 are pending and presented to be examined upon their merits. Claims 1, 17, 38, 46, 54, 59 and 62 are independent claims.

#### ***Claim Objections***

2. Claim 17 is objected to because of the following informalities: claim 17 describes, "which e-mail has instructions" following the description of a "first e-mail." Consistent use of the term "first e-mail" would help the claims read more clearly. Appropriate correction is required.

3. Claims 1, 17, 38, 46, 54, 59 and 62 are objected to because of the following informalities: the claims describe "sending", "replying" and "receiving" e-mails. However, it is not clear from the claim language which entity (web server, web site, or communication server) is completing the action. Consistent use of the entity titles and entity identification would help the claims read more clearly. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 1 describes “an information translating part” but does not disclose of what it is a part. The Examiner has assumed for examination that the claim 1 “part” means part of the web server.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Khan (US Pub. No. 2001/0056395).** In reference to claims 1, 17, 38, 46, 54, 59 and 62, Khan discloses a method, system and apparatus, comprising:

- a. maintaining a web site indicative of Internet auctions, in which internet auctions items for sale receive bids from users (via HTML) (0013—0016; 0065-0073);
- b. sending an e-mail to a specific user indicating that the specific user has been outbid on an item (via non-HTML), said e-mail including identification information (0099-0105; 0140-0141);

c. replying to said e-mail with a new bid amount and said identification information; and using information in the reply to said e-mail to change a bid amount on said web site for said Internet auctions on said item (0099-0105; 0140-0141).

2. In reference to claims 2-26, 18-37, 39-45, 47-53, 55-58, 60-61 and 63-64, Khan discloses a system, method an apparatus:

d. wherein said e-mail messages include e-mail messages in plain text form; wherein an e-mail pager, producing said e-mail messages; wherein a cellular telephone, producing said e-mail messages (0069); wherein said web server is a server that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet (0067); wherein said information translating part accepts e-mail messages which include instructions to change bids on items in auctions for which a user has been previously outbid (0140-0141); wherein said information translating part also sends e-mail messages indicative of information about said auctions; wherein said information translating part also sends e-mail messages that include information about items in said auctions for sale over the Internet, on which items a user has been outbid (0140-0141);

e. wherein said information translating part produces and sends messages which include a session identification indicator that identifies said auction information; wherein said information translating part detects a reply to one of said plain text messages which reply including said session identification

indicator, and takes action on a specified auction based on said session identification indicator (0099-0105).

f. wherein said information translating part also sends e-mail messages indicative of actions occurring on said web page (0065-0068; 0140-0141); wherein said e-mail messages include a session ID indicative of said actions; wherein said session ID is included as part of a return address in the e-mail message; wherein the session ID is used to interact with said actions on said Web page (0099-0105).

g. wherein said action includes placing a new bid; wherein said information translating part detects a new bid amount as part of a sent message; comprising replying to said e-mail with instructions to increase a bid; wherein said session ID is part of a return address for said e-mail (0065-0068; 0099-0105; 0140-0141).

h. wherein said web page is a web page for a server that maintains:

i. banking information; wherein said e-mail message includes instructions to request a bank balance;

ii. wherein said web page is a web page for a server that maintains stock portfolio information;

iii. wherein said e-mail message includes instructions to request information on stocks whose prices have changed by a specified amount (As detailed supra, Khan discloses the Internet based method, system and apparatus for bidding on a auction. This exchange of information technique could be used to perform the above uses (bank balance

queries, stock portfolio queries) via the same communication technique.

In addition to being disclosed by Khan, information transfer over the Internet is well-known in the art.)

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


- i. Rajan et al (US Pub. No. 2004/0078464);
- j. Mittra (US Patent No. 5,748,736);
- k. Steele et al (US Pub. No. 2002/0046084);
- l. Chen et al (US Pub. No. 2005/0240672).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached at (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
September 28, 2006

  
ELLA COLBERT  
PRIMARY EXAMINER